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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 CHURCH OF ALL FAITHS,

12 Plaintiff,

13 v.

14 DAVID BRIAN GRAY,

15 Defendant.  
16

Case No. 13-04418 JSC

**ORDER TO SHOW CAUSE TO  
DEFENDANT**

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18 Plaintiff brought this state law unlawful detainer action against Defendant in the  
19 Superior Court of California for the County of Alameda seeking to evict Defendant from real  
20 property located in Oakland. Defendant David Brian Gray, representing himself,  
21 subsequently purported to remove the action to this Court on the basis of federal question  
22 jurisdiction.

23 Defendant, as the party seeking removal to this federal court, bears the burden of  
24 establishing that subject matter jurisdiction exists, and courts strictly construe the removal  
25 statute against removal jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566-67 (9th Cir.  
26 1992). Further, when a case is removed to federal court, the court has an independent  
27 obligation to satisfy itself that it has federal subject matter jurisdiction. *Valdez v. Allstate*  
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1 *Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004). The Court has reviewed the Notice of  
2 Removal and has determined that federal question jurisdiction does not exist.

3 “Federal question jurisdiction exists only when a federal question exists on the face of  
4 a well-pleaded complaint.” *ING Bank, FSB v. Pineda*, No. 12-2418, 2012 WL 2077311, at  
5 \*1 (N.D. Cal. June 8, 2012). The removed complaint makes only a state law claim for  
6 unlawful detainer. (Dkt. No. 1-1, p. 10.) The Notice of Removal states that Plaintiff seeks to  
7 deprive Defendant of his constitutional rights; however, even if Defendant has a valid  
8 counterclaim for a civil rights violation, a counterclaim cannot provide a basis for federal  
9 question jurisdiction. *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009). Therefore, this  
10 Court does not have federal question jurisdiction. *ING Bank, FSB*, 2012 WL 2077311, at \*1.

11 Accordingly, Defendant is ORDERED to SHOW CAUSE as to why this case should  
12 not be remanded to the Alameda County Superior Court. In particular, if Defendant believes  
13 that this Court has subject matter jurisdiction, he shall file a response in writing by **October**  
14 **16, 2013** that demonstrates why this Court has jurisdiction. Defendant is warned that his  
15 failure to file a response will result in remand of this action to state court for lack of federal  
16 jurisdiction.

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18 **IT IS SO ORDERED.**

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20 Dated: October 2, 2013

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22 JACQUELINE SCOTT CORLEY  
23 UNITED STATES MAGISTRATE JUDGE  
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